

# EXHIBIT D



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UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Court File No. 0:18-cv-01776-JRT-HB

IN RE:

PORK ANTITRUST LITIGATION

\_\_\_\_\_ /

ORAL VIDEOTAPED DEPOSITION

THOMAS COSGROVE

APRIL 18, 2022

ORAL VIDEOTAPED DEPOSITION OF THOMAS COSGROVE, via Zoom, produced as a witness at the instance of the Defendant Triumph Foods, LLC, and duly sworn, was taken in the above-styled and numbered cause on the 18th day of April, 2022, from 10:02 a.m. to 2:32 p.m. EST, before Melinda Barre, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine, all parties appearing remotely via web videoconference, pursuant to the rules of procedure and the provisions stated on the record or attached hereto.

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(ALL APPEARED VIA ZOOM VIDEO CONFERENCE.)

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THE VIDEOGRAPHER: We're on the record on April 18, 2022 at 10:02 a.m. Eastern Time for the remote deposition of Mr. Thomas Cosgrove in the matter of en re Pork Antitrust Litigation. My name is Caylob Suarez, and I'm the videographer and document technician on behalf of Lexitas. Will counsel please introduce themselves and the party they represent beginning with the party noticing this proceeding.

MS. WALL: This is Amanda Wall. I'm an attorney with Husch Blackwell representing Triumph Foods.

MR. MALSTROM: Good morning. Carl Malstrom from Wolf Haldenstein Adler Freeman & Herz on behalf of Mr. Cosgrove.

MR. AMARA: Abou Amara, Gustafson Gluek, on behalf of the consumer indirect purchaser plaintiffs.

THE VIDEOGRAPHER: Would the court reporter please swear in the witness.

THOMAS COSGROVE,  
having been first duly sworn, testified as follows:

EXAMINATION

QUESTIONS BY MS. WALL:

Q. Thank you, Mr. Cosgrove. Like I said, my name is Amanda Wall. I'm an attorney with Husch Blackwell representing Triumph Foods in this case.

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purchased pork products from restaurants?

**A. It's likely if you would consider that a purchase. I'm purchasing the dishes that may or may not include pork.**

Q. Right. Well, are you thinking of? What restaurants do you purchase dishes that contain pork?

**A. There's some local restaurants. One is called 3 Squares Cafe. There's another one called Antidote Bar, maybe Caesar's salad with bacon, pork chops. There's a couple of Asian-style restaurants that might have things with pork belly or strips of pork like that.**

Q. The pork chops and Caesar's salad with bacon, is that something that you would order at 3 Squares or Antidote Bar or both?

**A. I think I mostly get it from 3 Squares. They would have pork in their sandwiches as well. I think mostly bacon is what they add to their foods.**

Q. What about an Antidote Bar, what types of pork products would you purchase from there?

**A. They have a fantastic mac and cheese with a slice of ham. It's very good.**

Q. Anything else from Antidote?

**A. Other than the mac and cheese that has ham, I don't think they have a lot of different pork products there.**

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Q. Then you mentioned some Asian restaurants. Do you know the names of those?

**A. One of them might be Pho Hong, which would be in Winooski, just above Burlington. They have pho, which is like a noodle soup. It's fantastic, highly recommend it. And they would have not bacon but maybe pork belly, which is very similar to bacon; but it's a much wider strip of meat. And they would include that in their dishes.**

Q. Sorry to backtrack. Is 3 Squares and Antidote Bar, are those both located in your town?

**A. Yes. Vergennes, Vermont.**

Q. Thank you. Any other restaurants that you haven't already mentioned that you have purchased pork products from?

**A. Pizza shop. Now it's called Rockers. That's the newly established pizza shop that took over. I don't remember what the old one was. Maybe Leonardo's. So I do occasionally purchase pizzas with sausage as a topping or pepperoni, things like that.**

Q. Where is that pizza place located?

**A. That one is also located in Vergennes, Vermont. I think Leonardo's is actually a small chain that is located in Burlington as well as Winooski. I think it's primarily in that area.**

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Q. Any other restaurants?

**A. Folino's is another one that's just south of South Burlington.**

Q. And what would you order from Folino's that would include a pork product?

**A. That is primarily a pizza place. So I would have gotten sausage, pepperoni. I think they do some prosciutto for their pizza.**

Q. Any other restaurants?

**A. I think that's about it.**

Q. How often do you eat out?

**A. Not very frequently.**

Q. I'm sorry. What was that?

**A. Not frequently, so maybe four or five times a month at the most.**

Q. And would that have been true through the 2012/2018 time period?

**A. Yes. We've reduced the amount of time we eat out since then.**

Q. Okay. So it may have been more frequently in that time period?

**A. Yeah. Closer to 2012 I think I ate out more often but now we eat out less often.**

Q. So currently four to five times a month. What would be the frequency in 2012 when you were eating out

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more often?

**A. Two to three times a week maybe.**

Q. The restaurants that we've already discussed, did that include kind of what you think of as fast-food establishments, or would there be other fast-food establishments that you purchased pork from?

**A. I tend to avoid fast-food restaurants. So I really don't frequent any fast-food restaurants.**

Q. Have you ever purchased meal delivery kits like Blue Apron?

**A. I have not.**

Q. Other than the farmer's markets and the co-ops that we've already spoken about, have you bought pork straight from a farm?

**A. No.**

Q. What about from a wholesaler?

**A. No.**

Q. Are there any other places that you've purchased pork that we haven't already discussed? And we'll tie it to that timeline, 2012 to 2018.

**A. Not to my knowledge.**

MS. WALL: Carl, would this be a good time to take a break?

MR. MALSTROM: Perfectly fine time for me. Thomas, is it a good time for you?

**THE WITNESS: That's great. I was actually going to ask.**

Q. (By Ms. Wall) I didn't mention before -- or maybe I did and I forgot -- that we'll try to break roughly every hour. But if you need a break, anybody, before then, let me know. And once we just kind of finish the line of questioning, then that will be fine.

Did you want to take just like five, ten minutes? I know you guys are East Coast. Did you want to break for lunch now or go another hour?

**A. Just five or ten minutes would be fine.**

Q. Okay. Perfect.

THE VIDEOGRAPHER: The time is 11:27 a.m. We're now going off the record.

(Recess taken)

THE VIDEOGRAPHER: The time is 11:36 a.m. We're now back on the record.

Q. (By Ms. Wall) Mr. Cosgrove, we're back on the record. You understand that you're still under oath, correct?

**A. Yes.**

Q. We were just talking about various places you purchased pork from from 2012 to 2018, correct?

**A. Yes.**

Q. Which defendants or co-conspirators did you

**A. That's not something that I've documented or kept track of personally.**

Q. (By Ms. Wall) Sure. Did you notice at all that prices of pork decreased at all in the 2012 to 2018 time period?

**A. No.**

Q. All right. In the 2012 to 2018 time period when you purchased pork at the grocery store, did you receive a receipt?

**A. Yes. I provided as many as I was able.**

Q. Would you also have received receipts when you purchase pork products at the farmer's market?

**A. Not likely.**

Q. What about the co-op?

**A. It's possible, yeah.**

Q. When you purchase pork from restaurants, do you receive a receipt?

**A. Usually.**

Q. What do you typically do with those receipts?

**A. I don't usually save or store them in any manner. I usually just refer to the statements of my bank account to reference the cost.**

Q. Has your counsel ever instructed you to keep receipts from your purchases of pork?

**A. Yes.**

purchase pork from in that time period?

**A. I believe probably primarily Smithfield and Hormel.**

Q. What types of pork products have you purchased from Smithfield in that time period?

**A. I purchased mostly bacon and pork loin, usually the premarinated.**

Q. And what about from Hormel?

**A. I'm not sure which one has which products. Those are the primary ones that I purchased.**

Q. So your response bacon and pork loins, I think you said, goes for both Smithfield and Hormel?

**A. It's likely.**

Q. Did the prices of those pork products increase between 2012 and 2018?

**A. I am not certain. It's likely.**

Q. Why do you say it's likely?

**A. I am not sure what metrics they're using to raise their prices, but it's likely because a lot of the prices for everything have risen as well over the course of those years.**

Q. What other things do you recall increasing in price from the 2012 to 2018 time frame?

MR. MALSTROM: Object to the form of the question as vague.

Q. Do you recall when you were instructed to start keeping those receipts?

**A. When I was first brought into the case.**

Q. How soon after you were brought into the case? Was it immediately or within a certain time frame?

**A. They suggested I start doing it immediately.**

Q. And have you started keeping those receipts?

**A. Some of them. It's not always easy to keep track of that information.**

Q. When you purchase pork, do you always ask for a receipt?

**A. I primarily purchase pork at the supermarket; and they provide a receipt for me, so yes.**

Q. You said that you have tried to keep track of those, but I think you said it's hard sometimes to keep track of them. So have you thrown away any receipts since you've become a plaintiff that would have had pork purchases on them?

**A. It's likely.**

Q. Of the receipts that you've been able to keep track of, have you produced all of those to your counsel?

**A. Yes.**

Q. You mentioned your bank records. Other than your bank records and receipts, is there any other

record that you would have that would reflect pork purchases?

**A. No.**

Q. All right. Let's open up envelope No. 3.

MS. WALL: And if we can pull up tab 3 on the screen, we'll mark this as Cosgrove Exhibit 3.

(Exhibit 3 marked)

Q. (By Ms. Wall) Let me know when you have that up, Mr. Cosgrove.

**A. Okay.**

Q. Do you recognize this document?

**A. Yes.**

Q. What is this?

**A. Those are the receipts that I provided.**

Q. Okay. And it looks like it's from Shaw's grocery store that we've been discussing. Is that correct?

**A. Yes.**

Q. Okay. And it looks like the store is the same store for all three receipts. Is that correct?

**A. Yes.**

Q. Is this the location of Shaw's that's closest to your house that you went most often?

**A. Yes.**

Q. Let's go one by one starting with the one on

**A. Correct.**

Q. And then down at the bottom I believe you can see the last four digits of what I believe is a credit card, 5267. Do you see that?

**A. Yes.**

Q. Do you recognize that as either your credit or debit card?

**A. Yes.**

Q. Okay. And then the second one down towards the bottom, do you see the date October 16th, 2020?

**A. Yes.**

Q. Again, is that your handwriting that handwrote "10-16-20" on the receipt?

**A. Yes.**

Q. Okay. And it looks like McKinzie maple ham was purchased. Is that correct?

**A. Yes. That was from the deli. So it was probably sliced ham.**

Q. Okay. And \$9.26 was the price that you paid. Is that correct?

**A. Yes.**

Q. And I know it doesn't look to me like at least that it's reflected on the receipt, but do you know if that was for a pound or how much you would have received from the deli of that sliced ham?

the left. Do you see where it says at the bottom this receipt is from March 26, 2021?

**A. Okay.**

Q. Do you see that?

**A. Yes.**

Q. There's a handwritten date, 3-26-21. Do you know who wrote that?

**A. It's my handwriting.**

Q. And it looks like it's pointing to some type of Hormel pork purchase. Is that correct?

**A. Yes.**

Q. Okay. And right below that there's bold -- so there's a regular price and a sale savings of \$6. So the price for whatever Hormel pork product this was was \$13.98. Is that correct?

**A. I believe so, yes.**

Q. Is that what you see reflected on the receipt?

**A. Yes.**

Q. Do you know what product this was other than presumably pork?

**A. It's likely that it was the pork loins, premarinated.**

Q. And the sale savings of \$6, would that have been just the sale savings from the store as opposed to like a coupon?

**A. It's possible it was a pound or a half pound.**

Q. But you're not sure what the quantity on that was. Is that correct?

**A. Correct.**

Q. The last line we've got November 25th of '20 is the date. Do you see that at the bottom?

**A. Yes.**

Q. And, again, the handwritten date and then handwritten "Smithfield." Is that your handwriting?

**A. Yes.**

Q. And it looks like this is sliced bacon for a total of \$11.49. Is that correct?

**A. Yes.**

Q. How do you know that this was Smithfield bacon?

**A. It was on the packaging.**

Q. Okay. So would you have written this "Smithfield" above "sliced bacon" at the time you purchased it?

**A. Yes.**

Q. Okay. Other than the three pork purchases from these three receipts that we just spoke about, are there other pork purchases reflected on these receipts?

**A. I do not think so.**

Q. Okay. Other than these three receipts, have you submitted any additional receipts reflecting pork